

# HOUSE BILL 962

D4, E1  
HB 410/08 – JUD

0lr1471  
CF SB 757

By: **Delegates G. Clagett, Dumais, Burns, DeBoy, Hecht, Hixson, Howard, Jameson, Kullen, Miller, Sophocleus, Stocksdales, F. Turner, and Wood**

Introduced and read first time: February 12, 2010

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 2010

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Crimes – Child ~~Neglect~~ – ~~Penalties~~ Endangerment**

3 FOR the purpose of prohibiting a parent or other person who has permanent or  
4 temporary care or custody or responsibility for supervision of a minor from  
5 ~~neglecting the minor in a manner that causes substantial risk of physical injury~~  
6 ~~to the minor, mental injury to the minor, or substantial risk of mental injury to~~  
7 ~~the minor; providing penalties for a violation of this Act; providing that it is an~~  
8 ~~affirmative defense to a charge of violating this Act that at the time of the~~  
9 ~~neglect there was a reasonable apprehension in the mind of the defendant that~~  
10 ~~acting to stop or prevent the neglect would result in substantial bodily harm to~~  
11 ~~the defendant or the minor; defining certain terms; and generally relating to~~  
12 ~~child neglect~~ recklessly failing to act in a certain manner with respect to the  
13 child; establishing the crime of child endangerment; specifying certain penalties  
14 for a violation of this Act; and generally relating to the crime of child  
15 endangerment.

16 BY repealing and reenacting, with amendments,  
17 Article – Criminal Law  
18 Section ~~3-601~~ 3-602.1  
19 Annotated Code of Maryland  
20 (2002 Volume and 2009 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 MARYLAND, That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



## 1 Article – Criminal Law

2 ~~§ 601.~~3 (a) (1) ~~In this section the following words have the meanings indicated.~~4 (2) ~~“Abuse” means physical injury sustained by a minor as a result of~~  
5 ~~cruel or inhumane treatment or as a result of a malicious act under circumstances~~  
6 ~~that indicate that the minor’s health or welfare is harmed or threatened by the~~  
7 ~~treatment or act.~~8 (3) ~~“Family member” means a relative of a minor by blood, adoption,~~  
9 ~~or marriage.~~10 (4) ~~“Household member” means a person who lives with or is a regular~~  
11 ~~presence in a home of a minor at the time of the alleged abuse.~~12 (5) ~~“MENTAL INJURY” MEANS THE OBSERVABLE, IDENTIFIABLE,~~  
13 ~~AND SUBSTANTIAL IMPAIRMENT OF A CHILD’S MENTAL OR PSYCHOLOGICAL~~  
14 ~~ABILITY TO FUNCTION.~~15 (6) (i) ~~“NEGLECT” MEANS A PATTERN OF FAILURE TO~~  
16 ~~PROVIDE NECESSARY ASSISTANCE AND RESOURCES FOR THE BASIC NEEDS OF A~~  
17 ~~MINOR, INCLUDING:~~18 1. ~~FOOD;~~19 2. ~~CLOTHING;~~20 3. ~~ESSENTIAL MEDICAL TREATMENT;~~21 4. ~~SHELTER; OR~~22 5. ~~SUPERVISION.~~23 (ii) ~~“NEGLECT” DOES NOT INCLUDE, FOR THAT REASON~~  
24 ~~ALONE:~~25 1. ~~THE FAILURE TO PROVIDE FOR THE BASIC NEEDS~~  
26 ~~OF A MINOR AS A RESULT OF A LACK OF FINANCIAL RESOURCES; OR~~27 2. ~~THE FAILURE TO PROVIDE SPECIFIED MEDICAL~~  
28 ~~TREATMENT THAT CONFLICTS WITH THE PARENT’S OR GUARDIAN’S BONA FIDE~~  
29 ~~RELIGIOUS BELIEFS AND PRACTICES.~~

1           ~~[(5)] (7)~~     ~~“Severe physical injury” means:~~

2                     ~~(i)     brain injury or bleeding within the skull;~~

3                     ~~(ii)    starvation; or~~

4                     ~~(iii)   physical injury that:~~

5                             ~~1.     creates a substantial risk of death; or~~

6                             ~~2.     causes permanent or protracted serious:~~

7                                 ~~A.     disfigurement;~~

8                                 ~~B.     loss of the function of any bodily member or organ; or~~

9                                 ~~C.     impairment of the function of any bodily member or~~  
10 ~~organ.~~

11           ~~(b)   (1)   A parent or other person who has permanent or temporary care or~~  
12 ~~custody or responsibility for the supervision of a minor may not cause abuse to the~~  
13 ~~minor that:~~

14                     ~~(i)     results in the death of the minor; or~~

15                     ~~(ii)    causes severe physical injury to the minor.~~

16           ~~(2)    Except as provided in subsection (c) of this section, a person who~~  
17 ~~violates paragraph (1) of this subsection is guilty of the felony of child abuse in the~~  
18 ~~first degree and on conviction is subject to:~~

19                     ~~(i)     imprisonment not exceeding 25 years; or~~

20                     ~~(ii)    if the violation results in the death of the victim,~~  
21 ~~imprisonment not exceeding 30 years.~~

22           ~~(c)    A person who violates this section after being convicted of a previous~~  
23 ~~violation of this section is guilty of a felony and on conviction is subject to:~~

24                     ~~(1)     imprisonment not exceeding 25 years; or~~

25                     ~~(2)     if the violation results in the death of the victim, imprisonment not~~  
26 ~~exceeding 30 years.~~

27           ~~(d)   (1)   (i)    A parent or other person who has permanent or temporary~~  
28 ~~care or custody or responsibility for the supervision of a minor may not cause abuse to~~  
29 ~~the minor.~~

1                   (ii) ~~A household member or family member may not cause abuse~~  
2 ~~to a minor.~~

3                   (2) ~~Except as provided in subsection (e) of this section, a person who~~  
4 ~~violates paragraph (1) of this subsection is guilty of the felony of child abuse in the~~  
5 ~~second degree and on conviction is subject to imprisonment not exceeding 15 years.~~

6                   ~~(E) (1) A PARENT OR OTHER PERSON WHO HAS PERMANENT OR~~  
7 ~~TEMPORARY CARE OR CUSTODY OR RESPONSIBILITY FOR SUPERVISION OF A~~  
8 ~~MINOR MAY NOT NEGLECT THE MINOR IN A MANNER THAT CAUSES:~~

9                   ~~(I) SUBSTANTIAL RISK OF PHYSICAL INJURY TO THE~~  
10 ~~MINOR;~~

11                   ~~(II) MENTAL INJURY TO THE MINOR; OR~~

12                   ~~(III) SUBSTANTIAL RISK OF MENTAL INJURY TO THE MINOR.~~

13                   ~~(2) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS~~  
14 ~~SUBSECTION IS GUILTY OF THE FELONY OF CHILD NEGLECT AND ON~~  
15 ~~CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR A~~  
16 ~~FINE NOT EXCEEDING \$10,000 OR BOTH.~~

17                   ~~(3) IT IS AN AFFIRMATIVE DEFENSE TO A CHARGE OF VIOLATING~~  
18 ~~PARAGRAPH (1) OF THIS SUBSECTION THAT AT THE TIME OF THE NEGLECT~~  
19 ~~THERE WAS A REASONABLE APPREHENSION IN THE MIND OF THE DEFENDANT~~  
20 ~~THAT ACTING TO STOP OR PREVENT THE NEGLECT WOULD RESULT IN~~  
21 ~~SUBSTANTIAL BODILY HARM TO THE DEFENDANT OR THE MINOR.~~

22                   ~~[(e)] (F) A sentence imposed under this section may be separate from and~~  
23 ~~consecutive to or concurrent with a sentence for any crime based on the act~~  
24 ~~establishing the violation of this section.~~

25 **3-602.1.**

26                   (A) A PARENT OR OTHER PERSON WHO HAS PERMANENT OR  
27 TEMPORARY CARE OR CUSTODY OR RESPONSIBILITY FOR THE SUPERVISION OF  
28 A MINOR MAY NOT RECKLESSLY FAIL TO ACT IN A MANNER THAT CREATES A  
29 SUBSTANTIAL RISK OF:

30                   (1) DEATH TO THE MINOR; OR

31                   (2) PERMANENT OR PROTRACTED SERIOUS:

1                   **(I) DISFIGUREMENT OF THE MINOR;**

2                   **(II) LOSS OF THE FUNCTION OF ANY BODILY MEMBER OR**  
3 **ORGAN OF THE MINOR; OR**

4                   **(III) IMPAIRMENT OF THE FUNCTION OF ANY BODILY**  
5 **MEMBER OR ORGAN OF THE MINOR.**

6                   **(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE**  
7 **MISDEMEANOR OF CHILD ENDANGERMENT AND ON CONVICTION IS SUBJECT TO**  
8 **IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$5,000 OR**  
9 **BOTH.**

10                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11                   October 1, 2010.

Approved:

\_\_\_\_\_ Governor.

\_\_\_\_\_ Speaker of the House of Delegates.

\_\_\_\_\_ President of the Senate.